IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No.2825 OF 2007

Dharma Dattu Mhatre ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr A. P. Mundargi, Sr. Advocate with Ganesh Gole,
Advocate for the applicant.

Mr Rajesh More, A.P.P for the respondent.

CORAM: V.C. DAGA,J.
DATED: 20.9.2007.

P.C.

1. Heard learned counsel for the applicant and the learned APP for the State.

2. Perused the application and the material available on record.

3. The applicant- accused arrested in C.R.No. 19 of 2007, registered with Uran Police Station, Raigad for the offence under Sections 396, 397, 363, 342, 412, 120 (B) of the I.P.C., is seeking bail under Section 439 of the Cr.P.C.

4. The present applicant-accused came to be arrested on 26.2.2007 and since then he is in jail. He has moved bail application in Sessions Court which came to be rejected on 31.7.2007.

5. Mr Mundargi, learned counsel for the applicant submits that the test identification parade of the accused was conducted after 46 days i.e. on 13.4.2007, after the commission of the offence alleged. In F.I.R., it is mentioned that two persons had their face covered. The name of the present applicant is not to be found in the F.I.R. According to Mr Mundargi, accused-applicant appears to have been implicated on the basis of mobile conversation and the information that was extracted from the mobile numbers of one Nilesh Wagh. The learned counsel for the applicant tried to demonstrate that if the prosecution wants to rely on this evidence only, then possibility of acquittal of the accused cannot be ruled out.

6. Two accused persons namely, Milind Pawar, and Amar Ramnath Bhagat are already enlarged on bail under the order of the learned Ad hoc Additional Sessions Judge Raigad in Cri. Misc. Appln. No. 638 of 2007. The investigation is complete. The charge sheet has also been filed.

7. Considering the factual aspect brought on record and the bail granted to the other two accused persons and completion of investigation, there is no reason not to grant bail of the applicant. I am, therefore, inclined to grant bail to the applicant on following terms and conditions.

a] The applicant arrested in connection with C.R.No. 19 of 2007, registered with Uran Police Station, Raigad for the offence under Sections 396, 397, 363, 342, 412, 120 (B) of the I.P.C., shall be enlarged on bail subject to furnishing a personal bond of Rs. 50,000/- with one or two local sureties to make of the said amount.

b] The applicant shall report to the above Police Station once in a week i.e. Monday in between 3.00 to 5.00 p.m. till conclusion of the trial.

c] The order of bail will be given effect only after the applicant furnish to the Investigating Officer the details about his place of residence and address where he propose to stay after he is enlarged on bail.

d] The applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not, in any manner, tamper with the prosecution evidence.

e] The applicant shall co-operate with the

learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

f] Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

8. Application is disposed of in above terms.

(V.C.DAGA,J)